

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 173 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MANUBHAI MADHUBHA THAKORE

Versus

DABHAIBHAI HEMABHAI DECEASED THROUGH HIS HEIRS AND L/R.

Appearance:

MR JITENDRA M PATEL for Petitioners

None present for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 23/06/97

ORAL JUDGMENT

Heard learned counsel for the petitioner and perused the order of the Gujarat Revenue Tribunal dated 26th April 1983, annexure 'F'.

2. The Tribunal has remanded the matter back to the Mamlatdar and ALT for deciding it afresh. From the order of the Tribunal it transpires that the admission made by

the tenant therein was not believed by the lower Court, relying on the evidence of the revenue records, specifically, the "record of rights". It is a fact noticed by the Tribunal that in the revenue records, i.e. Village Form No.7/12, in the column of "other rights", the name of the tenant has been shown as "protected tenant". In the column of revenue records, his name has been shown in the column of cultivation in the year 1955-56. So the Tribunal has observed and rightly so, that ignoring the admission, before relying on the records, the Mamlatdar and ALT should have given reasons for not believing the admission of the tenant, which he failed to do so. The admission is a substantive piece of evidence and in a given case if it is not believed then specific reason has to be given. The revenue records is certainly there but the admission of the opponent that he was not in possession is also equally an evidence, and when there are two sets of evidence, the Mamlatdar and ALT has to record reasons not to accept a particular set of evidence. The Tribunal has remanded the matter only to remind of his duty to the Mamlatdar and to decide the matter keeping in view the aforesaid observations. The order passed by the Tribunal is perfectly legal and justified and does not call for any interference of this Court. Moreover, it is a case where the matter has been remanded and the Tribunal has not decided the matter finally. In view of this fact, it cannot be said that any substantial injury or loss will be caused to the petitioner in case this Court declines to interfere in the matter under Article 227 of the Constitution.

3. In the result, the Special Civil Application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court, stands vacated. No order as to costs.

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